S.B. CIVIL WRIT PETITION NO.503/2005
Mani Ram vs. Maatu Singh and others.

Date : 24.1.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. C.P. Soni, for the petitioner.

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Heard learned counsel for the petitioner.

It appears that the dispute for the property in question is going on between the parties since long. There are civil litigations also with respect to the property in dispute. Some neighbours namely, Maatu Singh, Ram Kumar Singh and Girivar Singh were parties against Inder Singh in the litigation for cancellation of patta for the land in dispute. The matter was remanded by the appellate court and the patta was again cancelled by the lower authority against which appeal was preferred.

According to learned counsel for the petitioner, the petitioner was impleaded as party in the appeal. The matter was again remanded by the impugned order dated 25.5.2004 by the revisional Court vide Annex.1. According to learned counsel for the petitioner, though the petitioner was party before the appellate court but he was not impleaded as party before the revisional court and the revisional court without giving an opportunity of hearing to the petitioner, set aside the order dated 16.6.2003 and remanded the matter back to the lower authority.

According to learned counsel for the petitioner, the District Collector had no jurisdiction to hear the revision in view of the order of the State Government dated 8.9.2003 (Annex.9) and further the order is absolutely illegal as it has been passed without giving an opportunity of hearing to the petitioner.

I have considered the submissions of learned counsel for the petitioner.

It is clear from the facts of the case that litigation was originally not initiated by the petitioner nor he was party in the first round of litigation. His name has been shown in the order dated 16.6.2003 wherein it is mentioned that the name of the appellant and respondents were called. Thereafter, it is recorded that Mani Ram and Inder Singh are present. The appeal was heard in the presence of petitioner Mani Ram and Inder Singh. Though there is no material available on the record by which it can be gathered that Mani Ram was impleaded as party but the facts reveal that he is litigating the matter before the Civil Courts. He was, if party, then he was party in the second round of litigation upto the appellate stage. The revisional authority only passed the order of remand and observed that the court below should look into the relevant orders which were passed by the civil courts and also observed that the court below should follow the procedure and examine how a registered document can be cancelled.

Since the order under challenge dated 25.5.2004 will not adversely affect the petitioner and there is no reason for this Court to interfere in the order of remand while exercising jurisdiction under Article 227 of the Constitution of India in a matter where litigation is pending at least since last more than 10 years relating to patta of land in question.

In view of the above, this writ petition, having no merit, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya